

1 H.534

2 Introduced by Representative Grad of Moretown

3 Referred to Committee on

4 Date:

5 Subject: Crimes and criminal procedures; sealing of records

6 Statement of purpose of bill as introduced: This bill proposes to switch from a
7 two-track system of sealing and expungement for eligible criminal history
8 records to a one-track sealing system. The person whose record is sealed will
9 be treated in all respects as if the person had never been arrested, convicted, or
10 sentenced for the offense and the effect of sealing is to annul the record of
11 arrest, conviction, and sentence. Some within the criminal justice system are
12 provided limited access to sealed records for specific duration of time.

13 Criminal offenses eligible for sealing include qualifying misdemeanors;
14 offenses that are no longer crimes; qualifying DUI offenses; burglary into an
15 occupied dwelling by a person 25 years of age or under; qualifying felony
16 property offenses; and selling, dispensing, or transporting a regulated drug
17 offenses.

18 An act relating to sealing criminal history records

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 13 V.S.A. § 7601 is amended to read:

3 § 7601. DEFINITIONS

4 As used in this chapter:

5 (1) “Court” means the Criminal Division of the Superior Court.

6 (2) “Criminal history record” means all information documenting an
7 individual’s contact with the criminal justice system, including data regarding
8 identification, arrest or citation, arraignment, judicial disposition, custody, and
9 supervision.

10 (3) “Predicate offense” means a criminal offense that can be used to
11 enhance a sentence levied for a later conviction and includes operating a
12 vehicle under the influence of alcohol or other substance in violation of
13 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title,
14 and stalking in violation of section 1062 of this title. “Predicate offense” shall
15 not include misdemeanor possession of cannabis, a disorderly conduct offense
16 under section 1026 of this title, or possession of a controlled substance in
17 violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a),
18 4234b(a), 4235(b), or 4235a(a).

19 (4) “Qualifying crime” means:

20 ~~(A) a misdemeanor offense that is not:~~

21 ~~(i) a listed crime as defined in subdivision 5301(7) of this title;~~

- 1 ~~(ii) an offense involving sexual exploitation of children in~~
2 ~~violation of chapter 64 of this title;~~
- 3 ~~(iii) an offense involving violation of a protection order in~~
4 ~~violation of section 1030 of this title;~~
- 5 ~~(iv) prostitution as defined in section 2632 of this title, or~~
6 ~~prohibited conduct under section 2601a of this title; or~~
- 7 ~~(v) a predicate offense;~~
- 8 ~~(B) a violation of subsection 3701(a) of this title related to criminal~~
9 ~~mischief;~~
- 10 ~~(C) a violation of section 2501 of this title related to grand larceny;~~
- 11 ~~(D) a violation of section 1201 of this title related to burglary,~~
12 ~~excluding any burglary into an occupied dwelling, as defined in subdivision~~
13 ~~1201(b)(2) of this title;~~
- 14 ~~(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;~~
- 15 ~~(F) a violation of section 1802 of this title related to uttering a forged~~
16 ~~or counterfeited instrument;~~
- 17 ~~(G) a violation of 18 V.S.A. § 4230(a) related to possession and~~
18 ~~cultivation of cannabis;~~
- 19 ~~(H) a violation of 18 V.S.A. § 4231(a) related to possession of~~
20 ~~cocaine;~~
- 21 ~~(I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;~~

1 ~~(J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;~~

2 ~~(K) a violation of 18 V.S.A. § 4234(a) related to possession of~~

3 ~~depressant, stimulant, and narcotic drugs;~~

4 ~~(L) a violation of 18 V.S.A. § 4234a(a) related to possession of~~

5 ~~methamphetamine;~~

6 ~~(M) a violation of 18 V.S.A. § 4234b(a) related to possession of~~

7 ~~ephedrine and pseudoephedrine;~~

8 ~~(N) a violation of 18 V.S.A. § 4235(b) related to possession of~~

9 ~~hallucinogenic drugs;~~

10 ~~(O) a violation of 18 V.S.A. § 4235a(a) related to possession of~~

11 ~~ecstasy; or~~

12 ~~(P) any offense for which a person has been granted an unconditional~~

13 ~~pardon from the Governor.~~

14 (A) all misdemeanor offenses except:

15 (i) a listed crime as defined in subdivision 5301(7) of this title;

16 (ii) a violation of chapter 64 of this title relating to sexual

17 exploitation of children;

18 (iii) a violation of section 1030 of this title relating to a violation

19 of an abuse prevention order, an order against stalking or sexual assault, or a

20 protective order concerning contact with a child;

1 (iv) a violation of chapter 28 of this title related to abuse, neglect,
2 and exploitation of a vulnerable adult;

3 (v) a violation of subsection 2605(b) or (c) of this title related to
4 voyeurism;

5 (vi) a violation of section 352(1)-(10) of this title related to cruelty
6 to animals;

7 (vii) a violation of section 1025a of this title related to aggravated
8 disorderly conduct;

9 (viii) a violation of section 3006 of this title related to neglect of
10 duty by a public officer;

11 (ix) a violation of section 5409 of this title related to failure to
12 comply with sex offender registry requirements;

13 (x) a violation of sections 2802, 2802a, 2803, 2804, or 2804b
14 related to obscenity;

15 (xi) a violation of section 1455 of this title related to hate
16 motivated crimes; and

17 (xii) a violation of section 1456 of this title related to burning of a
18 religious symbol; and

19 (B) the following felonies:

20 (i) a violation of section 1201 of this title related to burglary,
21 excluding any burglary into an occupied dwelling, unless the person was 25

1 years of age or younger at the time of the offense and did not carry a weapon
2 during the commission of the offense;

3 (ii) designated felony property offenses as defined in subdivision
4 (5) of this subsection;

5 (iii) offenses relating to selling, dispensing, or transporting
6 regulated drugs, including violations of 18 V.S.A. § 4230(b), 4231(b), 4232(b),
7 4233(b), 4234(b), 4234b(b), 4235(c), or 4235a(b); and

8 (iv) any offense for which a person has been granted an
9 unconditional pardon from the Governor.

10 (5) “Designated felony property offense” means:

11 (A) a felony violation of 9 V.S.A. § 4043 related to fraudulent use of
12 a credit card;

13 (B) section 1801 of this title related to forgery and counterfeiting;

14 (C) section 1802 of this title related to uttering a forged or
15 counterfeited instrument;

16 (D) section 1804 of this title related to counterfeiting paper money;

17 (E) section 1816 of this title related to possession or use of credit
18 card skimming devices;

19 (F) section 2001 of this title related to false personation;

20 (G) section 2002 of this title related to false pretenses or tokens;

21 (H) section 2029 of this title related to home improvement fraud;

- 1 (I) section 2030 of this title related to identity theft;
- 2 (J) section 2501 of this title related to grand larceny;
- 3 (K) section 2531 of this title related to embezzlement;
- 4 (L) section 2532 of this title related to embezzlement by officers or
5 servants of an incorporated bank;
- 6 (M) section 2533 of this title related to embezzlement by a receiver
7 or trustee;
- 8 (N) section 2561 of this title related to receiving stolen property;
- 9 (O) section 2575 of this title related to retail theft;
- 10 (P) section 2582 of this title related to theft of services;
- 11 (Q) section 2591 of this title related to theft of rented property;
- 12 (R) section 2592 of this title related to failure to return a rented or
13 leased motor vehicle;
- 14 (S) section 3016 of this title related to false claims;
- 15 (T) section 3701 of this title related to unlawful mischief;
- 16 (U) section 3705 of this title related to unlawful trespass;
- 17 (V) section 3733 of this title related to mills, dams, or bridges;
- 18 (W) section 3761 of this title related to unauthorized removal of
19 human remains;
- 20 (X) section 3767 of this title related to grave markers and ornaments;
- 21 (Y) chapter 87 of this chapter related to computer crimes; and

1 (Z) 18 V.S.A. § 4223 related to fraud or deceit in obtaining a
2 regulated drug.

3 (6) “Subsequent offense” means the conviction of a crime committed by
4 the person who is the subject of a petition to seal a criminal history record that
5 arose out of a new incident or occurrence after the person was convicted of the
6 crime to be sealed.

7 Sec. 2. 13 V.S.A. § 7602 is amended to read:

8 § 7602. ~~EXPUNGEMENT AND SEALING OF RECORD,~~

9 POSTCONVICTION; PROCEDURE

10 (a)~~(1)~~ Petition.

11 (1) A person may file a petition with the court requesting ~~expungement~~
12 ~~or~~ sealing of the criminal history record related to the conviction if:

13 (A) the person was convicted of a qualifying crime or qualifying
14 crimes arising out of the same incident or occurrence;

15 (B) the person was convicted of an offense for which the underlying
16 conduct is no longer prohibited by law or designated as a criminal offense;

17 (C) pursuant to the conditions set forth in subsection (g) of this
18 section, the person was convicted of a violation of 23 V.S.A. § 1201(a) related
19 to operating under the influence of alcohol or other substance, excluding a
20 violation of that section resulting in serious bodily injury or death to any
21 person other than the operator, or related to operating a school bus with a blood

1 alcohol concentration of 0.02 or more or operating a commercial vehicle with a
2 blood alcohol concentration of 0.04 or more; or

3 (D) pursuant to the conditions set forth in subsection (h) of this
4 section, the person was convicted under 1201(c)(3)(A) of a violation of
5 subdivision 1201(a) of this title related to burglary when the person was
6 25 years of age or younger, and the person did not carry a dangerous or deadly
7 weapon during commission of the offense.

8 (2) The State's Attorney or Attorney General shall be the respondent in
9 the matter. For those offenses eligible for an early petition with stipulation
10 pursuant to this section, if a person petitions to seal a criminal history record
11 prior to the date the offense is eligible for sealing as provided in this section,
12 only the office that prosecuted the offense that is the subject of the sealing
13 petition may stipulate to that petition. The office that prosecuted the offense
14 may waive this requirement to allow for another prosecutorial office to
15 stipulate to a petition filed prior to the date the offense is eligible for sealing.

16 (3) The court shall grant the petition without hearing if the petitioner
17 and the respondent stipulate to the granting of the petition. The respondent
18 shall file the stipulation with the court, and the court shall issue the petitioner
19 an order of ~~expungement~~ sealing and provide notice of the order in accordance
20 with this section.

1 (4) This section shall not apply to an individual licensed as a
2 commercial driver pursuant to 23 V.S.A. chapter 39 seeking to seal ~~or expunge~~
3 a record of a conviction for a felony offense committed in a motor vehicle as
4 defined in 23 V.S.A. § 4.

5 (5) Except for criminal conviction records of offenses for which the
6 underlying conduct is no longer prohibited by law or designated as a criminal
7 offense, a criminal conviction record of a person who is under the supervision
8 of the Department of Corrections at the time the person files a petition pursuant
9 to this section shall not be eligible for sealing.

10 (b) Qualifying nonpredicate misdemeanors and possession of a regulated
11 drug misdemeanors. For petitions filed to seal a criminal history record of a
12 nonpredicate misdemeanor offense or a violation of 18 V.S.A. § 4230(a),
13 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a), 4234b(a), 4235(b), or 4235a(a),

14 (4) ~~The~~ the court shall grant the petition and order that the criminal
15 history record be ~~expunged pursuant to section 7606 of this title~~ sealed if the
16 following conditions are met:

17 ~~(A)(1)~~ (1) At least ~~five~~ three years have elapsed since:

18 (A) the date on which the person ~~successfully completed the terms~~
19 ~~and conditions of the sentence for the conviction~~ satisfied the judgement, or if
20 the person has ~~successfully completed the terms and conditions of an~~

1 indeterminate term of probation that commenced at least ~~five~~ three years
2 previously; or

3 (B) if the person committed a subsequent offense, the date on which
4 the person satisfied the judgment for the subsequent offense, whichever is
5 later.

6 ~~(B) The person has not been convicted of a crime arising out of a new~~
7 ~~incident or occurrence since the person was convicted for the qualifying crime.~~

8 ~~(C)(2)~~ Any restitution and surcharges ordered by the court have been
9 paid in full, provided that payment of surcharges shall not be required if the
10 surcharges have been waived by the court pursuant to section 7282 of this title.

11 ~~(D)(3)~~ The court finds that ~~expungement~~ sealing of the criminal
12 history record serves the interests of justice.

13 ~~(2) The court shall grant the petition and order that all or part of the~~
14 ~~criminal history record be sealed pursuant to section 7607 of this title if the~~
15 ~~conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and~~
16 ~~the court finds that:~~

17 ~~(A) sealing the criminal history record better serves the interests of~~
18 ~~justice than expungement; and~~

19 ~~(B) the person committed the qualifying crime after reaching 19~~
20 ~~years of age.~~

1 (c) Qualifying predicate misdemeanors. Except as provided in
2 subsection (g) of this section, for petitions filed to seal a criminal history
3 record of a qualifying predicate misdemeanor offense,

4 ~~(1)~~ The court shall grant the petition and order that the criminal
5 history record be ~~expunged pursuant to section 7606 of this title~~ sealed if the
6 following conditions are met:

7 ~~(A)(1)~~ At least ~~10~~ five years have elapsed since:

8 (A) the date on which the person ~~successfully completed the terms~~
9 ~~and conditions of the sentence for the conviction~~ satisfied the judgement; or if
10 the person has completed an indeterminate term of probation that commenced
11 at least five years previously; or

12 (B) if the person committed a subsequent offense, the date on which
13 the person satisfied the judgement for the subsequent offense, whichever is
14 later.

15 ~~(B)~~ ~~The person has not been convicted of a felony arising out of a~~
16 ~~new incident or occurrence in the last seven years.~~

17 ~~(C)~~ ~~The person has not been convicted of a misdemeanor during the~~
18 ~~past five years.~~

19 ~~(D)(2)~~ Any restitution and surcharges ordered by the court for any
20 crime of which the person has been convicted has been paid in full, provided

1 that payment of surcharges shall not be required if the surcharges have been
2 waived by the court pursuant to section 7282 of this title.

3 ~~(E)(3) After considering the particular nature of any subsequent~~
4 ~~offense, the court finds that expungement of the criminal history record for the~~
5 ~~qualifying crime~~ The court finds that sealing of the criminal history record
6 serves the interests of justice.

7 ~~(2) The court shall grant the petition and order that all or part of the~~
8 ~~criminal history record be sealed pursuant to section 7607 of this title if the~~
9 ~~conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met~~
10 ~~and the court finds that:~~

11 ~~(A) sealing the criminal history record better serves the interests of~~
12 ~~justice than expungement; and~~

13 ~~(B) the person committed the qualifying crime after reaching 19~~
14 ~~years of age.~~

15 (d) For petitions filed pursuant to subdivision (a)(1)(B) of this section,
16 unless the court finds that expungement would not be in the interests of justice,
17 the court shall grant the petition and order that the criminal history record be
18 expunged in accordance with section 7606 of this title if the following
19 conditions are met:

20 (1) The petitioner has completed any sentence or supervision for the
21 offense.

1 ~~(2) Any restitution and surcharges ordered by the court have been paid~~
2 ~~in full, provided that payment of surcharges shall not be required if the~~
3 ~~surcharges have been waived by the court pursuant to section 7282 of this title.~~
4 Offenses that are no longer prohibited by law.

5 (1) For petitions filed pursuant to subdivision (a)(1)(B) of this section,
6 the court shall grant the petition and order that the criminal history record be
7 sealed if the following conditions are met:

8 (A) The petitioner has completed any sentence or supervision for the
9 offense.

10 (B) Any restitution and surcharges ordered by the court have been
11 paid in full, provided that payment of surcharges shall not be required if the
12 surcharges have been waived by the court pursuant to section 7282 of this title.

13 (2) For petitions filed pursuant to subdivision (a)(1)(B) of this section
14 for a conviction for possession of a regulated drug under 18 V.S.A. chapter 84,
15 subchapter 1 in an amount that is no longer prohibited by law or for which
16 criminal sanctions have been removed:

17 (A) The petitioner shall bear the burden of establishing that the
18 petitioner's conviction was based on possessing an amount of regulated drug
19 that is no longer prohibited by law or for which criminal sanctions have been
20 removed.

1 (B) There shall be a rebuttable presumption that the amount of the
2 regulated drug specified in the affidavit of probable cause associated with the
3 petitioner's conviction was the amount possessed by the petitioner.

4 (e) ~~For petitions filed pursuant to subdivision (a)(1)(B) of this section for a~~
5 ~~conviction for possession of a regulated drug under 18 V.S.A. chapter 84,~~
6 ~~subchapter 1 in an amount that is no longer prohibited by law or for which~~
7 ~~criminal sanctions have been removed:~~

8 ~~(1) The petitioner shall bear the burden of establishing that his or her~~
9 ~~conviction was based on possessing an amount of regulated drug that is no~~
10 ~~longer prohibited by law or for which criminal sanctions have been removed.~~

11 ~~(2) There shall be a rebuttable presumption that the amount of the~~
12 ~~regulated drug specified in the affidavit of probable cause associated with the~~
13 ~~petitioner's conviction was the amount possessed by the petitioner. [Repealed]~~

14 (f) ~~Prior to granting an expungement or sealing under this section for~~
15 ~~petitions filed pursuant to subdivision 7601(4)(D) of this title, the court shall~~
16 ~~make a finding that the conduct underlying the conviction under section 1201~~
17 ~~of this title did not constitute a burglary into an occupied dwelling, as defined~~
18 ~~in subdivision 1201(b)(2) of this title. The petitioner shall bear the burden of~~
19 ~~establishing this fact. [Repealed]~~

20 (g) Qualifying DUI offenses. For petitions filed pursuant to subdivision
21 (a)(1)(C) of this section, ~~only petitions to seal may be considered or granted by~~

1 ~~the court. This~~ this subsection shall not apply to an individual licensed as a
2 commercial driver pursuant to 23 V.S.A. chapter 39. Unless the court finds
3 that sealing would not be in the interests of justice, the court shall grant the
4 petition and order that the criminal history record be sealed ~~in accordance with~~
5 ~~section 7607 of this title~~ if the following conditions are met:

6 (1) At least ~~10~~ seven years have elapsed since the date on which the
7 person ~~successfully completed the terms and conditions of the sentence~~
8 satisfied the judgment for the conviction, or if the person has ~~successfully~~
9 ~~completed the terms and conditions of~~ an indeterminate term of probation that
10 commenced at least ~~10~~ seven years previously.

11 (2) At the time of the filing of the petition:

12 (A) the person has only one conviction of a violation of 23 V.S.A.
13 § 1201, which shall be construed in accordance with 23 V.S.A. § 1211; and

14 (B) the person has not been convicted of a ~~crime arising out of a new~~
15 ~~incident or occurrence~~ subsequent offense since the person was convicted of a
16 violation of 23 V.S.A. § 1201(a).

17 (3) Any restitution ordered by the court has been paid in full.

18 (4) The court finds that sealing of the criminal history record serves the
19 interests of justice.

20 (h) Burglary into an occupied dwelling committed when person was 25
21 years of age or under. For petitions filed pursuant to subdivision (a)(1)(D) of

1 this section, unless the court finds that ~~expungement or~~ sealing would not be in
2 the interests of justice, the court shall grant the petition and order that the
3 criminal history record be ~~expunged or sealed in accordance with section 7606~~
4 ~~or 7607 of this title~~ if the following conditions are met:

5 (1) At least ~~15~~ 10 years have elapsed since the date on which the person
6 ~~successfully completed the terms and conditions of the sentence~~ satisfied the
7 judgment for the conviction, or the person has ~~successfully~~ completed the
8 ~~terms and conditions of~~ an indeterminate term of probation that commenced at
9 least 15 years previously.

10 (2) The person has not been convicted of a ~~crime arising out of a new~~
11 ~~incident or occurrence~~ subsequent offense since the person was convicted of a
12 violation of subdivision 1201(c)(3)(A) of this title.

13 (3) Any restitution ordered by the court has been paid in full.

14 (4) The court finds that ~~expungement or~~ sealing of the criminal history
15 record serves the interests of justice.

16 (i) Qualifying felony property offenses and selling, dispensing, or
17 transporting a regulated drug offenses. For petitions filed to seal a criminal
18 history record of a qualifying felony property offense or a violation of
19 18 V.S.A. § 4230(b), 4231(b), 4232(b), 4233(b), 4234(b), 4234a(b), 4234b(b),
20 4235(c), or 4235a(b):

1 (1) The court shall grant the petition and order that the criminal history
2 record be sealed pursuant to section 7607 of this title if the following
3 conditions are met:

4 (A) At least seven years have elapsed since:

5 (i) the date on which the person satisfied the judgment for the
6 conviction; or

7 (ii) if the person committed a subsequent offense, the date on
8 which the person satisfied the judgment for the subsequent offense, whichever
9 is later.

10 (B) Any restitution ordered by the court for any crime of which the
11 person has been convicted has been paid in full.

12 (C) The court finds that sealing of the criminal history record serves
13 the interests of justice.

14 (2) Prior to granting a petition for a violation of section 1201 of this
15 title, the court shall make a finding that the conduct underlying the conviction
16 did not constitute a burglary into an occupied dwelling. The petitioner shall
17 bear the burden of establishing this fact.

18 Sec. 3. 13 V.S.A. § 7607 is amended to read:

19 § 7607. EFFECT OF SEALING

20 (a) Order and notice. Upon entry of an order to seal, the order shall be
21 legally effective immediately and the person whose record is sealed shall be

1 treated in all respects as if ~~he or she~~ the person had never been arrested,
2 convicted, or sentenced for the offense and that its effect is to annul the record
3 of arrest, conviction, and sentence. The court shall provide notice of the
4 sealing to the respondent, Vermont Crime Information Center (VCIC), the
5 arresting agency, and any other entity that may have a record related to the
6 order to seal. The VCIC shall provide notice of the sealing to the Federal
7 Bureau of Investigation's National Crime Information Center.

8 (b) Effect.

9 (1) Except as provided in subdivision (c) of this section, upon entry of a
10 sealing order, the order shall be legally effective immediately and the person
11 whose record is sealed shall be treated in all respects as if ~~he or she~~ the person
12 had never been arrested, convicted, or sentenced for the offense.

13 (2) In any application for employment, license, or civil right or privilege
14 or in an appearance as a witness in any proceeding or hearing, a person may be
15 required to answer questions about a previous criminal history record only with
16 respect to arrests or convictions that have not been sealed.

17 (3) The response to an inquiry from any member of the public regarding
18 a sealed record shall be that "NO CRIMINAL RECORD EXISTS."

19 (c) Exceptions; convictions. Notwithstanding any other provision of law or
20 a sealing order:

1 (1) An entity that possesses a sealed record may continue to use it for
2 any litigation or claim arising out of the same incident or occurrence or
3 involving the same defendant.

4 (2) ~~A criminal justice agency as defined in 20 V.S.A. § 2056a may use~~
5 ~~the criminal history record sealed in accordance with section 7602 or 7603 of~~
6 ~~this title without limitation for criminal justice purposes as defined in 20~~
7 ~~V.S.A. § 2056a. A sealed record of a prior violation of 23 V.S.A. § 1201(a)~~
8 ~~shall be admissible as a predicate offense for the purpose of imposing an~~
9 ~~enhanced penalty for a subsequent violation of that section, in accordance with~~
10 ~~the provisions of 23 V.S.A. § 1210. For sentencing in subsequent offenses, the~~
11 ~~court and parties in a criminal case shall have access to sealed records as~~
12 ~~follows:~~

13 (A) nonpredicate misdemeanors and offenses that are no longer
14 prohibited by law for three years;

15 (B) qualifying DUI offenses for seven years;

16 (C) burglary into an occupied dwelling committed when person was
17 25 years of age or under for 10 years;

18 (D) qualifying felony property offenses and selling, dispensing, or
19 transporting a regulated drug offenses for seven years.

1 (3) The Department of Corrections shall have access to sealed records
2 for the purpose of conducting risk assessments and making supervision
3 decisions as follows:

4 (A) misdemeanors and offenses that are no longer prohibited by law
5 for three years;

6 (B) qualifying DUI offenses for seven years;

7 (C) burglary into an occupied dwelling committed when person was
8 25 years of age or under for 10 years; and

9 (D) qualifying felony property offenses and selling, dispensing, or
10 transporting a regulated drug offenses for seven years.

11 (d) Exceptions; dismissed charges. The prosecution shall have access to
12 cases dismissed without prejudice for three years. The prosecution may object
13 to the loss of access at three years by proving that the loss of access would
14 pose a “significant risk to public safety.”

15 (e) Process.

16 (1) The court shall bar viewing of the sealed offense in any accessible
17 database that it maintains.

18 (2) Until all charges on a docket have been sealed, the case file shall
19 remain publicly accessible.

20 (3) When all charges on a docket have been sealed, the case file shall
21 become exempt from public access.

1 ~~(e)~~(f) Special index.

2 (1) The court shall keep a special index of cases that have been sealed
3 together with the sealing order. The index shall list only the name of the
4 person convicted of the offense, ~~his or her~~ the person's date of birth, the docket
5 number, and the criminal offense that was the subject of the sealing.

6 (2) The special index and related documents specified in subdivision (1)
7 of this subsection shall be confidential and shall be physically and
8 electronically segregated in a manner that ensures confidentiality and that
9 limits access to authorized persons.

10 (3) Except as provided in ~~subsection~~ subsections (c) and (d) of this
11 section, inspection of the sealing order may be permitted only upon petition by
12 the person who is the subject of the case. The Chief Superior Judge may
13 permit special access to the index and the documents for research purposes
14 pursuant to the rules for public access to court records.

15 (4) The Court Administrator shall establish policies for implementing
16 this subsection.

17 Sec. 4. 13 V.S.A. § 7611 is added to read:

18 § 7611. UNAUTHORIZED DISCLOSURE

19 A person who discloses sealed criminal history record information without
20 authorization shall be assessed a civil penalty of not more than \$1,000.00.
21 Each unauthorized disclosure shall constitute a separate civil violation.

1 Sec. 5. 24 V.S.A. § 2002 is added to read:

2 § 2002. EXPUNGEMENT OF MUNICIPAL VIOLATION RECORDS

3 (a) Expungement. Two years following the satisfaction of a judgment
4 resulting from an adjudication of a municipal violation, the Judicial Bureau
5 shall make an entry of “expunged” and notify the municipality of such action.

6 The data transfer to the municipality shall include the name, date of birth,
7 ticket number, and offense. Municipal violations related to zoning shall not be
8 eligible for expungement under this section.

9 (b) Effect of expungement.

10 (1) Upon entry of an expungement order, the order shall be legally
11 effective immediately and the individual whose record is expunged shall be
12 treated in all respects as if the individual had never been adjudicated of the
13 violation.

14 (2) Upon an entry of expunged, the case will be accessible only by the
15 Clerk of the Court for the Judicial Bureau or the Clerk’s designee.
16 Adjudications that have been expunged shall not appear in the results of any
17 Judicial Bureau database search by name, date of birth, or any other data
18 identifying the defendant. Except as provided in subsection (c) of this section,
19 any documents or other records related to an expunged adjudication that are
20 maintained outside the Judicial Bureau’s case management system shall be
21 destroyed.

1 (3) Upon receiving an inquiry from any person regarding an expunged
2 record, the Judicial Bureau and the municipality shall respond that “NO
3 RECORD EXISTS.”

4 (c) Exception for research entities. Research entities that maintain
5 adjudication records for purposes of collecting, analyzing, and disseminating
6 criminal justice data shall not be subject to the expungement requirements
7 established in this section. Research entities shall abide by the policies
8 established by the Court Administrator and shall not disclose any identifying
9 information from the records they maintain.

10 (d) Policies for implementation. The Court Administrator shall establish
11 policies for implementing this section.

12 Sec. 6. EFFECTIVE DATE

13 This act shall take effect on July 1, 2022.